

1 Dianne Philipps

2 Pump Station has been identified both by the
3 Sewer District and the New York State DEC as
4 being a problematic pump station; correct?

5 A. Correct.

6 Q. So it is a known problem area where
7 that pump station continues to fail; correct?

8 A. Correct.

9 Q. What I'm asking then is: When --
10 how often were the lines that led into the Saddle
11 River Pump Station flushed?

12 A. We maintain the bigger interceptors.
13 The towns maintain all the eight-inch lines.
14 Typically rags do not settle out in interceptors,
15 they're bigger pipes, they have a higher flow,
16 and it usually carries -- carries the rags.

17 I would -- in the smaller lines,
18 where there's less flow, is where the debris
19 would normally settle out. So we're not
20 responsible for maintaining the eight-inch lines.

21 Q. But when the flow from the eight
22 line inches comes into your interceptors and goes
23 to your pump stations, then you're responsible;
24 right?

25 A. Correct, but the -- at that point

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2 they're flowing in the interceptor, and it's not
3 really settling out. It's flowing at that point.

4 Q. Right. And what is done by the
5 Sewer District to oversee monitoring the proper
6 maintenance of those eight-inch lines to prevent
7 overflows from happening as a result of rag
8 buildup?

9 A. That -- no amount of flushing would
10 resolve that problem.

11 Q. Okay. That's not what I asked. I
12 asked what is being done by the Sewer District to
13 oversee that those lines are properly maintained?

14 A. It's not our responsibility to
15 oversee those lines.

16 Q. Okay. But it ultimately becomes
17 your responsibility when that flow comes into
18 your lines and causes failures; correct?

19 A. Rags do cause problems for pumps.

20 Q. Okay. And when they cause problems
21 for your pumps, it's your responsibility; right?

22 A. Correct.

23 Q. Okay. I'm going to direct your
24 attention to Bates Stamps Number 200 and Number
25 201.

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2 A. Yes.

3 Q. This is a spill from March 9, 2008
4 at the 258 Grandview Avenue, Montebello?

5 A. Yes.

6 Q. The Grandview Pump Station; right?

7 A. Yes.

8 Q. And where on the map is that? I
9 think it's this one right, (indicating),
10 indicting where it's got a red line, an arrow to
11 Grandview?

12 A. Yes.

13 Q. And in this report it says that the
14 generator, the emergency diesel generator, was
15 not producing power?

16 A. Yes.

17 Q. And that attempts to reset the
18 generator failed?

19 A. Yes.

20 Q. And then ultimately you got a
21 temporary generator to the site?

22 A. Yes.

23 Q. It said that the spill was first
24 reported at 9:15 a.m.?

25 A. Yes.

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2 Q. And at 3:30 p.m. O and R restored
3 power to the facility?

4 A. Yes.

5 Q. It says that an estimate 375,000
6 gallons of sewage overflowed during that event;
7 right?

8 A. Well, it says dilute sewage, 'cause
9 there was a rain event prior to that.

10 Q. Okay. It says 375,000 gallons
11 though; right, --

12 A. Yes.

13 Q. -- of sewage?

14 A. Well, dilute sewage.

15 Q. Dilute sewage?

16 A. Right.

17 Q. But it doesn't say that in the
18 report. It says, if you look at the second to
19 last line, estimated 375,000 gallons of sewage
20 may have overflowed during this event?

21 A. It --

22 Q. And next sentence says, though,
23 you're right --

24 A. Overflow sewage was dilute.

25 Q. -- heavy rain, was dilute, correct.

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2 Now, if you look at the last page,
3 it indicates that, again, there was an affected
4 water body, the Willow Tree Brook, which is a
5 tributary to the Mahwah River?

6 A. Yes.

7 Q. And that was an affected water body
8 as a result of that spill?

9 A. Yes.

10 Q. Now, any of these spills that we
11 looked at, whether it be at the Saddle River and
12 the Saddle River being affected or Cherry Lane
13 and other water bodies affected in 2008, no
14 samplings of the water that -- or no samplings of
15 the water body that was affected as a result of
16 those sewer spills were taken by the Rockland
17 County --

18 A. No.

19 Q. -- Sewer District; correct?

20 A. Correct.

21 Q. But that was something you could
22 have done; right?

23 A. When we report the spills to the
24 Health Department, to the DEC. If they wanted us
25 to do any kind of sampling, they would direct us

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2 to do that.

3 Q. Okay. But you did do that in 2002,
4 when you had the fish kill, you took samples of
5 the water; right?

6 A. Correct. We were trying to
7 determine -- we wanted to be sure what was --
8 what was the reason for the fish kill.

9 Q. Okay. So it is something that the
10 Sewer District is capable of doing; right, taking
11 water samples?

12 A. Yes.

13 Q. And you don't need to be directed by
14 the DEC to do that?

15 A. It's not our standard operating
16 procedure. If the DEC or the Health Department
17 wants us to take additional measures, they would
18 instruct us to do that.

19 MR. BURKE: Ask this be marked as
20 Plaintiffs' 18.

21 (Plaintiffs' Exhibit 18, Spills 2009
22 File, was marked for identification.)

23 Q. I show you what's been marked as
24 Plaintiffs' Exhibit 18, indicates Spills 2009
25 File. Bates Stamp Number PLDW 202 through 217

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2 collectively. I'll ask you to take a look at
3 that, and I'm going to direct you to specific
4 spills.

5 A. Okay.

6 Q. I'm going to direct your attention
7 to PLDW 206 and 207. And this is regarding a
8 sewage spill April 26, 2009 Saddle River Pump
9 Station?

10 A. Yes.

11 Q. Again, over a year after the new
12 pumps were installed; right?

13 A. Correct.

14 Q. And it talks about a failure of a
15 motor control center, MCC, subpanel breaker?

16 A. Correct.

17 Q. And at the end of that first
18 paragraph it says that an estimated 78,000
19 gallons of sewage overflowed --

20 A. Correct.

21 Q. -- during this event?

22 And it doesn't indicate that it was
23 a wet weather event; right?

24 A. Correct.

25 Q. So this is a more concentrated

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2 78,000 gallons of sewage?

3 A. Yes.

4 Q. And I think it says that the backup
5 generators failed as well?

6 A. No, the generators did not fail.

7 Q. I'm sorry. It talks about the
8 approximate start time of the spill at 5:15 p.m.
9 This is paragraph one.

10 A. Yes.

11 Q. And it says that it was ended when
12 the pumps were manually started at 7:50 p.m.?

13 A. Yes.

14 Q. So in that two-hour and 35-minute
15 period it was estimated that 78,000 gallons
16 overflowed?

17 A. Yes.

18 Q. And this is in the last paragraph at
19 Page 1, as a result of the failure of this pump,
20 the pump station, Manhole 10171 and 10172 near
21 the pump station overflowed into the Saddle
22 River; correct?

23 A. Yes.

24 Q. That's the one that's in the parking
25 lot of the Saddle River Swim Club and one further

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2 down next to the Swim Club?

3 A. Yes.

4 Q. It says, affected areas were cleaned
5 of solid debris, and a small quantity of lime was
6 applied; right?

7 A. Correct.

8 Q. Turning to Page 2 of this report,
9 the New Jersey DEP wasn't notified again; right?

10 A. According to this report.

11 Q. And this was, again, a spill with an
12 estimated 78,000 gallons after the pumps had been
13 installed in January, the new pumps, in
14 January of 2008.

15 So wouldn't you agree that as a
16 result of the installation of the new pumps and
17 the maintenance that had been done on the Saddle
18 River Pump Station, it didn't prevent this
19 overflow in April of 2009?

20 A. Well, there's many more components
21 of a pump station than pumps. This is a failure
22 of a breaker.

23 Q. But there was also work being done
24 on the SCADA reporting and on the electrical
25 components at the pump station; right?

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2 A. Well, we replaced the variable
3 frequency drives and the pump controls and the
4 telemetry system.

5 Q. Does that have anything to do with
6 why there was a failure this time?

7 A. No.

8 Q. Okay.

9 A. These MCCs were replaced in the
10 mid-Nineties.

11 Q. When you replaced the pumps, do they
12 inspect the MCCs?

13 A. The MCCs would probably get
14 inspected just regular maintenance.

15 Q. Do you know if the installation of
16 the new pumps had anything to do with the failure
17 of the MCCs?

18 A. No.

19 Q. It would not have?

20 A. No.

21 Q. How often are the MCCs inspected?

22 A. I don't know. Inspecting an MCC is
23 not gonna -- you're not gonna be able to look at
24 a breaker and know when it's gonna fail.

25 Q. And follow-up investigation says,

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2 didn't identify the cause for the trip of the MCC
3 breaker? If you look at Paragraph 2.

4 A. Correct.

5 Q. And it says, for corrective action
6 they replaced a 250 amp MCC breaker?

7 A. It says, the District will replace
8 the breaker. It was reset I believe at that
9 point.

10 Q. Do you know if the District did
11 replace the 250 amp --

12 A. Yes.

13 Q. -- MCC breaker?

14 A. Yes, we did.

15 Q. Do you know when that was done?

16 A. It was a couple months after that.
17 Maybe a month, month and-a-half.

18 Q. Okay. I'm going to ask you to turn
19 to 208.

20 A. Yes.

21 Q. This was another sewage spill on
22 May 20th, 2009?

23 A. Yes.

24 Q. Again, Saddle River Pump Station?

25 A. Yes.

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2 Q. And it talks about a failure of a
3 circuit breaker?

4 A. Yes.

5 Q. Do you know where that failure in
6 the circuit breaker was?

7 A. In the MCC.

8 Q. So the same location where the prior
9 failure of the circuit breaker was?

10 A. Yes.

11 Q. And it says, the 255 alarm for the
12 utility power failure prompted employees to
13 respond to the pump station; right?

14 A. Yes.

15 Q. Now, here it says, no emergency
16 generator running; right?

17 A. Correct.

18 Q. The emergency generator is supposed
19 to automatically kick in if there's a failure;
20 correct?

21 A. If there's a power outage. In this
22 case it wasn't a power outage.

23 Q. It was a circuit breaker?

24 A. Correct.

25 Q. Based on the prior spill that we saw

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on April 26th, 2009 and then the subsequent spill a little less than a month later, the issues of the circuit breakers and the MCC can it be assumed were not addressed during that period of time?

A. I believe this was the same breaker that failed.

Q. Failed again?

A. Yes.

Q. So do you know if that breaker had been replaced?

A. Here it says it had been replaced.

Q. Okay.

A. So the date of this report by that time it had been replaced.

Q. So it failed again?

A. Yes.

Q. Any reason stated why it failed?

A. No.

Q. And it also says that an estimated 5,000 gallons of sewage may have overflowed during this event?

A. Yes.

Q. And that they're saying there was no

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2 evidence of sewage overflow into the Saddle
3 River, but that the affected areas near the
4 Manhole 10172 and 74, this is the last paragraph
5 of the first page, were cleaned and solid debris
6 removed; correct?

7 A. Correct.

8 Q. Okay. I'm going to ask you to turn
9 to 212. This is another spill report, dated
10 September 23rd, 2009, regarding the sewage spill
11 on September 15th, 2009?

12 A. Yes.

13 Q. And the location is the Hackensack
14 Pump Station?

15 A. Yes.

16 Q. Where is the Hackensack Pump
17 Station?

18 A. It's here. (Indicating).

19 Q. We're indicating on the east side of
20 the Palisades, near the Orangetown, Clarkstown
21 border?

22 A. Yes.

23 Q. South of the Orangetown, Clarkstown
24 border?

25 A. Yes.

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2 Q. And there is a water body that runs
3 adjacent to that, as well?

4 A. Yes.

5 Q. What is that? Looks like Hackensack
6 River?

7 A. Hackensack River.

8 Q. And in the first paragraph it
9 indicates that the employees found that no pumps
10 were running at the Hackensack Pump Station?

11 A. Correct.

12 Q. And that one and two were tripped,
13 three was out of service, and pumps four, five,
14 and six were available, but not running?

15 A. Correct.

16 Q. So this spill resulted as pump
17 failure; correct?

18 A. No.

19 Q. Well, one and two were not running;
20 right?

21 A. We have -- three other pumps were
22 available.

23 Q. But not running?

24 A. Correct.

25 Q. Okay. So this spill would have been

1 Dianne Philipps

2 caused by equipment failure; would it not?

3 A. Looks like it was a control board in
4 the pump controls.

5 Q. Which is part of the equipment of
6 the pump station?

7 A. Yes.

8 Q. So the failures were as a result of
9 equipment failure?

10 A. Looks like a loose wire and a
11 control board failure.

12 Q. And it says an estimated 320,000
13 gallons of sewage may have overflowed during this
14 event?

15 A. Yes.

16 Q. And then the last paragraph it says
17 that the overflow in the area drained into the
18 Hackensack River?

19 A. Yes.

20 Q. And it doesn't indicate anything as
21 to a wet weather event; correct?

22 A. Correct.

23 Q. So that this 320,000 gallons would
24 have been a higher concentration of sewage and
25 pollutants; correct?

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2 A. Yes.

3 MR. BURKE: Can you mark this,
4 please.

5 (Plaintiffs' Exhibit 19, 2010 Spills
6 File, was marked for identification.)

7 Q. I'm going to ask you to take a look
8 at what's being marked now as Plaintiffs'
9 Exhibit 19.

10 (Document submitted.)

11 Q. Okay. I'm going to direct you,
12 again, to specific spills in Plaintiffs'
13 Exhibit 19. This is Bates Stamp Number PLDW 218
14 through 238. And direct your attention to
15 PLDW 220.

16 And this is a sewage spill from
17 May 24th, 2010?

18 A. Yes.

19 Q. It's a report from Gene Yetter to
20 you?

21 A. Yes.

22 Q. And it's regarding a sewage spill
23 from May 24th, 2010 at 79 South Monsey Road,
24 Airmont?

25 A. Yes.

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2 Q. And then it's got a slash, a
3 backwards slash, SRPS force main; correct?

4 A. Yes.

5 Q. That's the Saddle River Pump Station
6 force main?

7 A. Yes.

8 Q. Do you know where this manhole is
9 located?

10 A. I don't know exactly, but it's
11 somewhere in this vicinity probably.
12 (Indicating.)

13 Q. And you're indicating, what is that?

14 A. Well, it was on South Monsey, so
15 somewhere between here and between the -- this is
16 South Monsey Road here. (Indicating.)

17 Q. Okay.

18 A. So somewhere along here.
19 (Indicating.)

20 Q. Somewhere between the Twin Lakes --

21 A. Pump Station.

22 Q. -- and the Saddle River?

23 A. Well, somewhere between the Twin
24 Lakes Pump Station and the intersection of South
25 Monsey and Saddle River Road.

1 Dianne Philipps

2 Q. Okay. And this is south, along --
3 this is below where the prior problems for
4 Manhole 10019; --

5 A. Correct.

6 Q. -- correct?

7 That's north of the Twin Lakes Pump
8 Station; correct?

9 A. Correct.

10 Q. Now, let me just briefly get back
11 to, you had mentioned that you previously
12 testified there was no capacity issues, but then
13 you changed that there was capacity issues at the
14 Ramapo Interceptor.

15 Do you know how long those capacity
16 issues were going on?

17 A. I'd have to review the file.

18 Q. Was it more than a year?

19 A. Yes.

20 Q. More than two years?

21 A. Yes.

22 Q. More than five years?

23 A. Yes.

24 Q. More than ten years?

25 A. Yes.

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2 Q. That there were capacity issues at
3 that interceptor?

4 A. Yes.

5 Q. More than 15 years?

6 A. I would have to review the file.

7 Q. So at least ten years, though?

8 A. Yes.

9 Q. From now, reaching back?

10 A. Yes.

11 Q. Are there still problems at that
12 location?

13 A. No.

14 Q. Have you been out to that location
15 recently?

16 A. Yes.

17 Q. When?

18 A. I don't specifically know when, but
19 I know I've been out in the vicinity of the pump
20 stations in the Village of Airmont within the
21 last six months.

22 Q. Okay. And specifically 10019, that
23 manhole, have you been there in the last six
24 months?

25 A. I've probably driven by it.

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2 We have certain places where we have
3 had odor problems. In the past we addressed 'em
4 with chlorine, and chlorine is a much more
5 dangerous product to deal with. Now we switched
6 to the non-hazardous products.

7 Q. Let me just first. Do you know how
8 long you've been receiving odor complaints in the
9 Saddle River Pump Station area?

10 A. I know we've had od -- we've had
11 products that address the odors at the Saddle
12 River Pump Station for as long as I've been
13 there, since 1989. We had chlorine. Then I
14 think we used sodium hy --

15 Q. Do you know how long you had
16 chlorine?

17 A. We had hypochlorite there. We had
18 chlorine there for awhile, gaseous chlorine. We
19 got rid of that. We had sodium hypochlorite for
20 awhile, which really didn't address the odors
21 fully. And now we have the BIO-CAT. We have
22 data loggers in the pumps, in the wet well of
23 Twin Lakes to measure hydrogen sulfide levels
24 continuously, and we record that data and we
25 review it. It's usually hydrogen sulfide is what

1 Dianne Philipps

2 causes the odors.

3 Q. Okay. How long have you had those
4 monitors at the Twin Lakes Pump Station?

5 A. Since we started with the BIO-CAT,
6 we -- we -- we trialed several products to make
7 sure they worked, and the requirement was that
8 they get down to zero parts per million hydrogen
9 sulfide. So we measured that. Then when we
10 started with the BIO-CAT, they -- they installed
11 the data loggers in there continuously.

12 Q. Okay. And that was done when you
13 started using the BIO-CAT, which has been for
14 about a year?

15 A. At least a year. Probably more than
16 a year.

17 Q. You said that you've been using some
18 kind of product to combat the odors since you've
19 been at the Sewer District in 1989 --

20 A. Yeah.

21 Q. -- at the Saddle River Pump Station;
22 right?

23 A. Right. We've had odd issues at the
24 Saddle River Pump Station, Twin Lakes Pump
25 Station, and our North Pump Station.

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2 Q. How long were you using the chlorine
3 to combat the odors at the Saddle River Pump
4 Station?

5 A. I know there was chlorine there when
6 I started in 1989. When we stopped using the
7 chlorine, I'd have to look it up. I don't
8 recall.

9 Q. Okay. Do you know when -- did you
10 go -- has there always been a continuous use of
11 some product to prevent odor at the Saddle
12 River --

13 A. Yes.

14 Q. -- Pump Station?

15 A. Yes.

16 Q. So you had chlorine, then you said
17 you went to the sodium hydrochloride?

18 A. Hypochlorite.

19 Q. Hypochlorite.

20 A. Which is bleach.

21 Q. Okay. So you went from chlorine to
22 bleach.

23 How long did you use the bleach for?

24 A. I'd have to check the file. I'm not
25 sure.

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2 Q. Okay. Do you have a file that
3 actually shows what you're using to contain the
4 odors, and how long you've been using it?

5 A. Probably not.

6 Q. Okay. So you said you'd have to
7 check the file. What would you be checking?

8 A. I could probably easily find out
9 when we started with BIO-CAT, because we had to
10 put it out to bid. I can go through some
11 purchasing records. I'd look in the Pump Station
12 file, might be some information in there on when
13 we used what.

14 Q. Okay. So that's information that
15 after this deposition you'd be able to try to
16 furnish, as far as when you were using the
17 chlorine, the bleach, and the BIO-CAT?

18 A. Yes.

19 ***

20 MR. BURKE: Okay. I'd ask, if you
21 could, if it's not too onerous, to be able
22 to make those determinations approximately
23 when you began and ended the use of these
24 products.

25 Okay?

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2 THE WITNESS: Okay.

3 MR. BURKE: Thank you.

4 THE WITNESS: Can you write that
5 down.

6 MR. BURKE: Off the record.

7 (There was a discussion held off the
8 record.)

9 Q. Back to the capacity issue at the
10 Ramapo Interceptor at Manhole 10019.

11 Was it ever reported to the DEC that
12 you had a capacity issue at that location?

13 A. No. It might have became more
14 apparent when we did some hydraulic modeling of
15 the interceptor.

16 Q. When was that done?

17 A. I'd have to check. It was -- it was
18 within the last five years.

19 Q. Okay. But you said that there's
20 been a capacity issue for at least ten; right?

21 A. I'm assuming so, 'cause that was --
22 we've -- we've had, during extreme wet weather
23 events, we had overflows at that manhole for
24 quite sometime.

25 Q. Do you know if publically that the

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2 Q. So you could assess what the bid
3 requirements would be for potential bidders;
4 correct?

5 A. Well, you have -- you have to do the
6 specifications, the drawings. You have specify a
7 model. You have to specify a capacity that it
8 has to -- has to meet.

9 Q. And you also have to specify the
10 cost for those models; correct?

11 A. We do a cost estimate.

12 Q. Right. So then the person who is
13 bidding would know where to come in as far as
14 what the cost of materials would be and then
15 installation; correct?

16 A. Correct.

17 MR. BURKE: Off the record.

18 (There was a discussion held off the
19 record.)

20 Q. Okay. I think I have you at 220;
21 right?

22 A. Yes.

23 Q. Bates Stamp Number 220, PLDW 220,
24 which is part of Exhibit 19.

25 Okay. This is a spill report, as we

1 Dianne Philipps

2 said, from May 24th. Again, it is the Saddle
3 River Pump Station force main that's identified.
4 And it says that the report estimated an overflow
5 of 1,000 gallons; correct?

6 A. Yes.

7 Q. Okay. Does it identify in this
8 report what the cause of this spill was?

9 A. A corroded fitting on a clean out
10 assembly.

11 Q. So that was a worn fitting that was
12 corroded that caused a sewer spill?

13 A. Yes.

14 Q. Okay. I direct your attention to
15 223, 224 and 225. And this is a report dated
16 March 26th, 2010 from Gene Yetter to you
17 regarding a sewage spill from March 13th through
18 15th, 2010?

19 A. Yes.

20 Q. And one of the areas located
21 identified is the Saddle River Road, Ramapo Lane
22 in Airmont?

23 A. Yes.

24 Q. Well, I beg your pardon. Those are
25 two locations, at least how these reports read,

1 Dianne Philipps

2 Saddle River Road and Ramapo Lane in Airmont;
3 correct?

4 A. Yes.

5 Q. The first paragraph on Page 2 of
6 this report indicates that overflow from the
7 Commerce Street spill in Spring Valley flowed
8 into the Pascack Brook?

9 A. Yes.

10 Q. And the next paragraph says that the
11 King Terrace, Valleyview Terrace and Aselin,
12 A-S-E-L-I-N, Drive spills flowed into the
13 tributaries of the Pascack Brook?

14 A. Yes.

15 Q. And then three paragraphs down from
16 that it talks about the spills at the Saddle
17 River Pump Station from March 14th; right?

18 A. Yes.

19 Q. It said there that the pump station
20 crews repeatedly removed rags from pumps. The
21 pump station was operational throughout the
22 event. The overflow subsided late in a day on
23 March 14th. No blockages identified downstream.
24 Any overflow drained into the tributary of the
25 Saddle River; right?

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2 A. Yes.

3 Q. Doesn't say how many gallons?

4 A. No, it does not.

5 Q. And, actually, the second -- the
6 last paragraph on Bates Stamp 224, continuing
7 onto 225, talks about another location in the
8 Town of Ramapo where this spill drained into a
9 tributary in the Saddle River?

10 A. Yes.

11 Q. Do you know where that is located on
12 this map? It says Monsey Glen County Park.

13 A. I can't really tell by this map. I
14 think it's in this area, between Route 59 and the
15 Thruway. (Indicating.) If I looked on a street
16 map, it would show that park.

17 Q. Do you know, are the manholes
18 numbered in any kind of readable way? Like, for
19 example, we know that the manholes next to the
20 Saddle River -- next to the Saddle River Pump
21 Station are 10172 and 74. We know that the
22 manhole further up the line, next to
23 Mr. Schneider's house is 10019.

24 Are they in any kind of readable
25 order; or, no, does it depend on when they're

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2 installed?

3 A. There is somewhat of an order.

4 Q. Okay.

5 A. Sometimes it depends on when they
6 were installed.

7 Q. And, again, that would be dictated
8 by development and everything else? You may have
9 more manholes if there's newer developments that
10 come in, in certain areas; correct?

11 A. Well, the inter -- on the
12 interceptors they wouldn't change that much. I
13 mean, we're usually not adding new interceptors.

14 Q. Okay. So --

15 A. Except in the case of North Pascack,
16 where we're building an interceptor. I'm not
17 sure if we're gonna kind of keep the same
18 numbers.

19 Q. Okay.

20 A. Just rebuilding it or we're going to
21 be giving new numbers.

22 Q. And that's the work that's being
23 done because of the capacity issues in New
24 Square; right?

25 A. Correct.

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2 Q. All right. Where is that being done
3 on this map?

4 A. Here's the North Pascack
5 Interceptor. (Indicating.) I believe it's in
6 this vicinity here. (Indicating.)

7 Q. So you're indicating next to where
8 Hillcrest is listed on this map?

9 A. Well, it's -- New Square is about in
10 here. (Indicating.)

11 Q. Okay.

12 A. So it's the area south of New
13 Square.

14 Q. All right. Which is the
15 interceptor. That's gravity?

16 A. Yes.

17 Q. What's the size of that gravity?

18 A. I believe it's 21 inch.

19 Q. What's being put in?

20 A. I'd have to check. I -- I don't
21 recall.

22 Q. Is it a bigger gravity than that?

23 A. In one section we're -- we're
24 paralleling, we'd probably use both pipes, but
25 I'd have to double check.

1 Dianne Philipps

2 Q. So that one section where you're
3 paralleling, how long is that section?

4 A. I'd have to pullout the plans and
5 specs. I don't recall.

6 Q. But at that point you're going to
7 put in at least another 21-inch interceptor;
8 right?

9 A. I'd have to check the plan.

10 Q. Well, would you put in anything
11 smaller than a 21-inch in that area?

12 A. If we're abandoning the existing
13 pipe, we'd put something larger than what the
14 existing pipe is. If we just --

15 Q. Which would make sense, because
16 there's capacity problems?

17 A. Right. If we're paralleling, we'd
18 probably do the same size pipe or bigger in that
19 case also.

20 Q. When you're paralleling, it just so
21 I understand the engineering of it, is it coming
22 from a trunk or is it coming from that that line
23 will go directly into a separate location, so the
24 flow wouldn't be coming from a bottle neck, I
25 guess?

1 Dianne Philipps

2 A. Well, if we're gonna have either the
3 one or the two pipes, we're building a parallel
4 pipe. Whether both are staying in service, I'm
5 not sure. It's going to come into a chamber,
6 and then we're increasing the capacity south of
7 that chamber also.

8 Q. Was there a study done as to the
9 capacity and how to increase the capacity in that
10 area?

11 A. Yes.

12 Q. Who did that study?

13 A. Brooker Engineering.

14 Q. Who?

15 A. B-R-O-O-K-E-R.

16 Q. Do you know when they did it?

17 A. Within the last few years.

18 Q. Was there any engineering reports as
19 to capacity done about the Ramapo interceptor?

20 A. I know we've done hydraulic
21 modeling. I'd have to check and see if a report
22 was generated on that.

23 Q. Okay. I'm going to direct your
24 attention to Bates Stamp Number PLDW 226 of
25 Exhibit Number 19. This is a report dated

1 Dianne Philipps

2 January 22nd, 2010. A spill report from Gene
3 Yetter to you; correct?

4 A. Correct.

5 Q. And a sewage spill location is at
6 the Twin Lakes Road, Twin Lakes Pump Station
7 January 12th, 2010; right?

8 A. Yes.

9 Q. And in the second paragraph it says
10 the investigation into the incident found a
11 catastrophic mechanical failure in two pumps?

12 A. Yes.

13 Q. And this is just so, again,
14 referencing Plaintiffs' Exhibit 17, the Twin
15 Lakes Pump Station is further up the line from
16 the Saddle River Pump Station, Saddle River pumps
17 to Twin Lakes; right?

18 A. Correct.

19 Q. And Twin Lakes also abuts the Saddle
20 River, so that if there's a sufficient overflow,
21 the Saddle River will be affected as well?

22 A. A tributary to the Saddle River.

23 Q. Okay. A tributary to the Saddle
24 River.

25 It says in the middle of Paragraph 2

1 Dianne Philipps

2 that pump two failed due to excessive rags within
3 the pump, which called for pump three. And it
4 says pump three apparently failed shortly
5 thereafter?

6 A. Yes.

7 Q. And then you sent pump three out for
8 repair; right?

9 A. Yes.

10 Q. On the second page, continuing from
11 Page 1, it talks about installing an additional
12 protective feature based on a variable frequency
13 drive, a VFD?

14 A. Yes.

15 Q. I think you talked about that, as
16 far as that was going to be something that was
17 going to be done also at the Saddle River Pump
18 Station?

19 A. Right, the VFDs had been replaced.

20 Q. At the Twin Lakes Pump Station, as
21 well; correct, or was it only at the Saddle River
22 Pump Station?

23 A. I believe they were replaced at Twin
24 Lakes also by -- by that date.

25 Q. The last paragraph says, a review of

1 Dianne Philipps

2 the flow data supports an estimate of
3 70,000 gallons, which may have been discharged
4 into a small stream adjacent to the pump station,
5 which is a tributary to the Saddle River?

6 A. Yes.

7 Q. And, again, this wasn't a wet
8 weather event, so that's a higher concentration
9 of sewage and pollutants going into a tributary
10 to the Saddle River; correct?

11 A. Correct.

12 Q. And this was as a result of
13 equipment failure?

14 A. Yes.

15 Q. Bates Stamp Number 230 and 231.
16 This, if you look at the end, this is a sewer
17 spill report from February 28th, 2010, and it's a
18 report dated March 9th, 2010 from Gene Yetter to
19 you; correct?

20 A. Yes.

21 Q. And this spill location is the
22 Grandview Pump Station?

23 A. Yes.

24 Q. And he said an estimated 20,000
25 gallons overflowed there?

1 Dianne Philipps

2 A. Yes.

3 Q. And they identified a problem with
4 the generator there in the first paragraph?

5 A. Yes.

6 Q. And on the last paragraph of this
7 report, on Page 2 --

8 A. Well, the second paragraph
9 identified it as not being a failure of the
10 generator.

11 Q. What does it say?

12 A. That the -- let's see. An employee
13 performing normal repairs or troubleshooting
14 earlier that day had inadvertently de-energized
15 the generator's day taint transfer pump.

16 Q. Okay. So it's human error?

17 A. Yes.

18 Q. Was it a contracted employee --

19 A. No.

20 Q. -- or a Sewer District --

21 A. Sewer District employee performing
22 normal maintenance.

23 Q. And on Page 231, the last full
24 paragraph it says, that a portion flowed to the
25 Willow Tree Brook, which is a tributary to Mahwah

1 Dianne Philipps

2 River?

3 A. Yes.

4 Q. Next Page, 232. Spills from

5 March 27th through 30th, 2010?

6 A. Yes.

7 Q. Identified Saddle River Road, Ramapo

8 Lane in Airmont?

9 A. Yes.

10 Q. And, again, this is now two years

11 after the new pumps have been installed?

12 A. Yes.

13 Q. And four years after the Consent

14 Decree was entered into?

15 A. Yes.

16 Q. Well, just shy of four years. It

17 was May of 2006 and this is March --

18 A. Yes.

19 Q. -- of 2010?

20 A. Yes.

21 Q. And here listed, if you look at the

22 fourth paragraph down on Page 2, --

23 A. Yes.

24 Q. -- it's discussing that overflow

25 near the Saddle River Pump Station on March 29th?

1 Dianne Philipps

2 A. Yes.

3 Q. And it's, again, identifying the
4 Manholes 10172 and 74, which are the ones that
5 are in the parking lot and adjacent to the Swim
6 Club; correct?

7 A. Correct.

8 Q. And it said that the overflow,
9 although it doesn't list the gallons, drained
10 into the -- into a tributary of the Saddle River;
11 correct?

12 A. Correct.

13 Q. And the next paragraph also
14 indicates that Manhole 10006 had overflowed, and
15 that area drained into a tributary into the
16 Saddle River; correct?

17 A. Correct.

18 Q. And no where in this report as to
19 any of these spills it doesn't appear that there
20 was any estimate of the amount of gallons that
21 overflowed; correct?

22 A. Correct.

23 Q. Is that something that, I think we
24 typically, that it is included in the reports;
25 what the estimated amount of gallons that

1 Dianne Philipps

2 overflow are contained in the report?

3 A. Correct.

4 Q. This one doesn't have that though;
5 right?

6 A. Correct.

7 Q. So it's usually the protocol that
8 you should have that contained in the report;
9 right?

10 A. Correct.

11 Q. Okay. I'm going to ask you to turn
12 to 237, and this is a sewage spill on April 1st,
13 2010. The date of the report is April 15th,
14 2010.

15 A. Yes.

16 Q. From Gene Yetter to you; right?

17 A. Yes.

18 Q. And here it says, it identifies the
19 spill at the Twin Lakes Pump Station?

20 A. Yes.

21 Q. And it says that the -- he indicated
22 that there was an alarm at 11:15 p.m.; right?

23 A. Yes.

24 Q. And that this spill stopped at
25 approximately 3:00 a.m., if you read further down

1 Dianne Philipps

2 in that paragraph?

3 A. Yes.

4 Q. It says an estimated 50,000 gallons
5 may have overflowed during this event?

6 A. Yes.

7 Q. And, again, into a tributary of the
8 Saddle River; right?

9 A. Yes.

10 Q. And it doesn't indicate that this
11 was a wet weather event; correct?

12 A. Correct.

13 Q. So another high concentration of
14 pollutants and sewage going into a tributary of
15 the Saddle River; correct?

16 A. Yes.

17 Q. And, again, it wasn't as a result of
18 infiltration or inflow, it's a dry weather event,
19 as it's identified; right?

20 A. Yes.

21 Q. And infiltration and inflow are
22 typically referenced when there's a greater
23 amount of storm water coming in through the sewer
24 system; correct?

25 A. Correct.

1 Dianne Philipps

2 Q. Do you know what the stated reason
3 was for this 50,000 gallons to overflow into the
4 Saddle River as a result of this spill on
5 April 1st, 2010?

6 A. A mechanical failure in check valve
7 for pump two.

8 Q. Do you know when the pumps were
9 replaced at the Twin Lakes Pump Station?

10 A. They were replaced mid-Nineties
11 also.

12 Q. They hadn't been replaced since the
13 mid-Nineties?

14 A. No, but they've been rebuilt.

15 Q. Do you know when they were rebuilt?

16 A. I'd have to check the records. They
17 routinely are sent out to have the bearings and
18 shafts checked.

19 Q. Just so I understand, the flow goes
20 from the Saddle River to the Twin Lakes, Twin
21 Lakes flows pushes up the flow from that pump
22 station to the Ramapo Interceptor?

23 A. Yes.

24 Q. Is that at the start of the Ramapo
25 Interceptor, where Manhole 10019 is?

1 Dianne Philipps

2 And that basically represents flushing the entire
3 system. Every line gets flushed at least once
4 every ten years.

5 Q. And if a line is identified as a
6 problematic line, would you flush it more
7 frequently to try to prevent overflows and
8 backups?

9 A. Yes.

10 Q. We've identified the Saddle River
11 Pump Station previously, both at the Sewer
12 District and the DEC has identified it as a
13 problematic pump station; correct?

14 A. The things we flush more frequently
15 that are problematic usually deal with grease.

16 Q. But you don't -- so you wouldn't
17 flush problematic lines that continue to overflow
18 because of buildup of rags?

19 A. We haven't identified a specific
20 line in the Saddle River contributing area as --
21 that you would go out and flush on a more
22 frequent basis.

23 Q. I show you what's previously been
24 marked as Plaintiffs' Exhibit 7, which is the
25 Consent Decree.

1 Dianne Philipps

2 (Document submitted.)

3 Q. And that Consent Decree, as we
4 previously discussed, was entered into on May --
5 well, at least that's dated May 11th, and I
6 believe it was signed May 6th, 2006?

7 A. It says executed on May 10th.

8 Q. May 10th. When did Julius Graifman
9 sign it?

10 A. It says on the 6th.

11 Q. Okay.

12 A. Oh, wait. No. I guess it was
13 executed when Mark Moran signed it on the 10th.

14 Q. All right.

15 A. Julius Graifman executed it on --

16 Q. The 9th?

17 A. May 9th.

18 Q. Okay. So it's fully executed by the
19 10th of May, 2006.

20 Do you know -- and this fully
21 executed copy was sent to you; correct?

22 A. Yes.

23 Q. From a Kelly Turturro, who is the
24 Assistant Regional Attorney?

25 A. Yes.

1 Dianne Philipps

2 Q. Were you involved in arriving at the
3 final Consent Decree?

4 A. Yes.

5 Q. And you were involved in
6 negotiations and discussions of the Consent
7 Decree?

8 A. Yes.

9 Q. Do you know if there were drafts of
10 the Consent Decree back and forth between the
11 Sewer District and the DEC?

12 A. I would assume there would have
13 been.

14 Q. And you were involved in the
15 discussions of those drafts, as far as you
16 recall?

17 A. I -- I would have been.

18 MR. BURKE: Can you mark this,
19 please.

20 (Plaintiffs' Exhibit 20, Letter,
21 dated February 22, 2006 from Ms. Tutturro
22 to Ms. Philipps, Bates stamped PLDW000337
23 through PLDW000345, was marked for
24 identification.)

25 Q. I show you what I've had marked as

1 Dianne Philipps

2 Plaintiffs' Exhibit 20.

3 (Document submitted.)

4 Q. I'm going to show you what's been
5 marked as Plaintiffs' Exhibit 20.

6 Have you had sufficient time to look
7 at Plaintiffs' Exhibit 20?

8 A. Yes.

9 Q. And that's a letter, covering
10 letter, dated February 22nd, 2006 to you from
11 Kelly Turturro, the Assistant Regional Attorney
12 for the DEC?

13 A. Yes.

14 Q. And attached to this letter there
15 was a Consent Order that was offered to resolve
16 the violations by the DEC to you; correct?

17 A. Correct.

18 Q. And that offer of the Order Consent,
19 as it appears, was rejected by the Rockland
20 County Sewer District; correct?

21 A. Correct.

22 Q. And, in fact, that Order of Consent,
23 comparing the two, if we look at Paragraph B,
24 between the two of them -- you see the
25 Paragraph B on both?

1 Dianne Philipps

2 A. Yes.

3 Q. The offer originally lists, at the
4 bottom of Paragraph B, it says, the sewer
5 collection system experienced approximately 100
6 sanitary sewer overflows, and it's reflecting
7 that two-year period above, discharging untreated
8 raw sewage and storm water into the waters in the
9 state, and then it listed those approximate 100
10 SSOs that occurred between January 2nd, 2003 and
11 December 16, 2005; correct?

12 A. Correct.

13 Q. And in the Order of Consent that was
14 accepted by the Sewer District, it just says,
15 multiple sanitary sewer overflows; right?

16 A. Yes.

17 Q. And then it lists violations
18 attached as Appendix A; right?

19 A. Yes.

20 Q. And I think it actually, if you look
21 at Appendix A, breaks them out between dry
22 weather and wet weather?

23 A. Yes.

24 Q. On the Compliance Schedule on Page 6
25 of Plaintiffs' Exhibit 20 -- actually, let's look

1 Dianne Philipps

2 at Plaintiffs' Exhibit 7 first.

3 On Plaintiffs' Exhibit 7 the Consent
4 Order, that was accepted by the Sewer District,
5 they have first listed, under the Compliance
6 Schedule, general requirements, and it lists
7 immediately; correct?

8 A. Correct.

9 Q. And on the Consent Decree that was
10 accepted by the Sewer District it says,
11 Respondents shall certify completion of the work
12 required under this schedule to the Department
13 within five days of its completion.

14 Right?

15 A. Correct.

16 Q. Now, looking at the Consent Decree
17 that was offered, but rejected by the Sewer
18 District, there is an immediate re -- there's two
19 immediate requirements, not just one, as listed
20 in the Consent Decree that was accepted; right?

21 A. Correct.

22 Q. And, in fact, the first immediate
23 requirement that was offered by the DEC or
24 suggested should be complied with by the DEC
25 states, Respondents shall cease and desist from

1 Dianne Philipps

2 any and all future violations of the New York
3 State Environmental Conservation Law and the
4 rules and regulations enacted pursuant thereto;
5 correct?

6 A. Correct.

7 Q. And that doesn't appear in the
8 Consent Decree that the Sewer District accepted;
9 correct?

10 A. Correct.

11 Q. So the terms, as they were presented
12 in the February 2006 Consent Decree, were not
13 acceptable to the Sewer District as to the cease
14 and desist order; correct?

15 A. Correct.

16 Q. Because you couldn't comply with it;
17 correct?

18 A. Correct.

19 Q. So you couldn't comply with
20 continuing to violate New York State's
21 Environmental Conservation Laws; right?

22 A. You can't control the weather, and
23 you can't control --

24 Q. That's not what I asked.

25 A. -- floods.

1 Dianne Philipps

2 Q. You couldn't comply with not
3 violating the New York State Environmental
4 Conservation Law as the DEC was requesting you do
5 in the initial Consent Order; correct?

6 A. Correct.

7 Q. In the specific requirements, and
8 let's look at Sub 2 of the draft of the proposed
9 Consent Decree.

10 Just taking a step back, did this --
11 this Order doesn't seem like it was a draft order
12 that Ms. Turturro sent to you in February of
13 2006. She's saying, here's the Order. Sign it
14 before a Notary, with a check. And it says,
15 don't make any changes to the Order without
16 contacting me.

17 So this is a final Order that she's
18 offering to the Sewer District; right?

19 A. Yes.

20 Q. What happened between February and
21 May of 2006 to arrive at the Consent Decree that
22 we have in May of 2006?

23 A. Well, I believe this was reviewed by
24 legal counsel, and then I believe we requested a
25 meeting to discuss what was going to be in the

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Dianne Philipps

clause?

A. Yes.

Q. And that was language that was included by the Sewer District in the final Consent Decree, in comparing these two documents?

A. Well, this would have been on the advice of legal counsel.

Q. Would these additional paragraphs, 7 and 8, roman numeral seven and eight, also be on the advice of legal counsel to add into the Consent Decree?

A. Yes.

Q. As well as the -- removing the provision that deals with the immediately ceasing and desisting from violating the New York State Environmental Law, that removal of that portion, would have been under the advice of counsel?

A. Yes.

Q. On Page 6 of the February and Page 4, the Bates stamps for February 343, and Bates Stamp for the May Order, which is Exhibit 7, is 364, there's listed under roman numeral two specific requirements; correct?

A. Correct.

1 Dianne Philipps

2 A. I'd have to check the file. I
3 thought we pretty much were on schedule, unless
4 we missed a -- we might have missed -- I'd have
5 to check the file.

6 Q. And you definitely would agree that
7 the Order that was proposed in February of 2003,
8 the work wasn't completed by August of 2007;
9 correct?

10 A. Well, the report that laid out the
11 schedule was -- was submitted in July 2007.

12 Q. Right. So you didn't complete the
13 work?

14 A. There was a review process. There
15 were comments back and forth. We had a final
16 report I believe in January 2008 laying out the
17 final schedule.

18 Q. So as proposed the Order that was
19 proposed in February of 2006, where it said they
20 wanted all the work done by August of 2007, the
21 work wasn't done by August of 2007, and that
22 wasn't what was agreed to; right?

23 A. Correct.

24 Q. In the February 2006 Consent Decree,
25 again, under Specific Requirements, B Sub 2 the

1 Dianne Philipps

2 DEC identifies the following locations as being a
3 priority for corrective action, and one of those
4 locations is Saddle River Road; correct?

5 A. Correct.

6 Q. And also South Monsey Road; correct?

7 A. Correct.

8 Q. So of the seven listed priority
9 locations, two of them deal with what we've been
10 talking about, the South Monsey Road and the
11 Saddle River Road; correct?

12 A. Yes.

13 MR. BURKE: I'm going to show you
14 what I ask be marked as 21.

15 (Plaintiffs' Exhibit 21,
16 February 26, 2007 letter to Ms. Philipps
17 from Henry Mazzucca, Bates Stamp
18 Number PLTF 1835, was marked for
19 identification.)

20 Q. I ask you to take a look at that.
21 It's Bates Stamp Number PLTF 1835.

22 (Document submitted.)

23 Q. Ms. Philipps, this is a letter dated
24 February 2007 from Manju Cherian with the New
25 York State DEC --

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Dianne Philipps

recollection as to the approximate time that the new siphon was put in and the subsequent overflow at Manhole 10019 after the new siphon chamber was put in?

A. Well, this might have been the first big rain event after the siphon was put in. We might have had some other rain events in between then and it didn't overflow. So it's really not a good indication. I'd want to go back and check the date.

Q. But at least it's reporting an overflow at Manhole 10019 after the siphon chamber was put in; correct?

A. Yes. Yeah, this was in response, I believe, to Mr. Schneider taking photos and they were e-mailed to me. I mentioned I had sent an engineer out there to investigate everything.

MR. BURKE: Okay. I ask that this be marked as 24.

(Plaintiffs' Exhibit 24, letter, dated September 18, 2007 to Dianne Philipps from Manju Cherian, was marked for identification.)

Q. I show you what's been marked as

1 Dianne Philipps

2 Exhibit 24.

3 (Document submitted.)

4 Q. This is a letter to you from, again,
5 Manju Cherian, of the New York State DEC, dated
6 September 18, 2007, Bates Stamp Number
7 RSHC 0008136 and 8137.

8 In the first paragraph of the letter
9 it's saying that the engineering report submitted
10 under item C of the Compliance Schedule for the
11 Order of Consent was not approvable; right?

12 A. Correct.

13 Q. And specifically as to items four
14 and five on Page 2, that deals with the
15 engineering report as to the Saddle River Pump
16 Station; right?

17 A. Correct.

18 Q. And it said that the evaluation
19 should have been part of the engineering report,
20 indicating that it wasn't; right?

21 A. Yes.

22 Q. And then Paragraph 5 it's stating
23 that the statement so there, at least according
24 to the DEC, you weren't complying with the items
25 contained in the Consent Decree, as far as what

1 Dianne Philipps

2 needed to be reported; correct?

3 A. Maybe it was submitted separately.

4 Q. According to the DEC, in reading
5 this letter --

6 A. Should have been.

7 Q. -- that item should have been
8 included?

9 A. The engineering report.

10 Q. Right. And according to the DEC, at
11 least in the February 2006 Consent Decree, the
12 DEC identified the Saddle River as being a
13 priority area; correct?

14 A. Correct.

15 Q. And Paragraph 5 underneath that it
16 says, the statement on Page 2-13 about the
17 average base infiltration?

18 A. Yes.

19 Q. They said that the findings that are
20 listed there would be in the excessive range for
21 the base flow?

22 A. I seem to recall there was -- I
23 would like to see our response to this letter,
24 because I believe with regard to this issue there
25 was, I don't want to say a typo, but there was

1 Dianne Philipps

2 redirect the Tallman force main?

3 A. Right. It's (indicating).

4 Q. Because there were two lines that
5 came in at one point there?

6 A. Yeah, a shallow manhole that came in
7 together. And when those pipes are -- you know,
8 a large flowing full, it just -- it would fill
9 up that manhole too quick and a little bit would
10 come out, so we redirected the force main a
11 little further down the line.

12 Q. During the course of maintenance at
13 Manhole 10019 wasn't there a time where a locking
14 mechanism would be put on that manhole?

15 A. Yes.

16 Q. And are you aware if that locking
17 mechanism had been blown off as a result of
18 force?

19 A. Yes.

20 Q. Was there also locking mechanisms
21 put on the manholes at 10172 and 10174 by the
22 Saddle River Swim Club?

23 A. I don't believe so.

24 Q. Why not?

25 A. It wouldn't work.

1 Dianne Philipps

2 Q. Why not?

3 A. It would just blow the whole manhole
4 top off.

5 Q. Which is what happened at 10019;
6 right?

7 A. Correct.

8 Q. And that's where it blew the road
9 apart and everything else?

10 A. Yes.

11 Q. Did it work for a while, the locking
12 mechanism?

13 A. I don't think at South Monsey it
14 did. We did successfully install some on Jeffrey
15 Court, that seem to be holding, but we did a
16 little different construction method.

17 Q. And that's one of the ones in
18 Clarkstown?

19 A. Yes.

20 Q. Which previously by the DEC was
21 identified as a problem area?

22 A. Yes.

23 Q. Did you ever try putting a locking
24 mechanism in Saddle River at their pump station,
25 in those manholes?

1 Dianne Philipps

2 A. I believe it'd be the same
3 contracts. You would -- you have small site.

4 Q. A small site where you couldn't
5 include a larger storage tank; is that what
6 you're saying?

7 A. Yes.

8 MR. BURKE: Okay. I'm going to show
9 you what I'd like marked as
10 Plaintiffs' 30.

11 (Plaintiffs' Exhibit 30, letter
12 dated April 23, 2008 from Manju Cherian to
13 Dianne Philipps, Bates stamped 002496, was
14 marked for identification.)

15 Q. Plaintiffs' Exhibit 30 is a letter
16 from DEC to you, from Manju Cherian, dated
17 April 23rd, 2008, regarding the comprehensive
18 inspection of the Rockland County Sewer District
19 in relation to your SPDES Permit Number 0031895.

20 (Document submitted.)

21 Q. And in this letter he's indicating
22 to you that there were noted deficiencies of the
23 facility that needed to be corrected by the time
24 of the next inspection?

25 A. Yes.

1 Dianne Philipps

2 Q. It says that it appears that there
3 were inadequate spare part inventories being
4 maintained?

5 A. It says for the plant and possibly
6 also the collection system.

7 Q. Right. So that he's indicating that
8 there was an inadequate spare part inventory for
9 the plant and possibly the collection system;
10 right?

11 A. Yes.

12 Q. And that there had been processed
13 units that had been awaiting repairs over several
14 months; right?

15 A. Yes.

16 Q. And that there were multiple
17 breakdowns of primary and secondary tanks in
18 January of 2008, causing a suspended solid permit
19 violation?

20 A. Yes.

21 Q. And then, in addition, staffing
22 levels have been reduced over the past few years?

23 A. Yes.

24 Q. Then he expresses a concern of DEC,
25 especially in light of the additional work being

1 Dianne Philipps
2 performed in the collection system as part of the
3 Order on Consent requirements, concerns about the
4 inadequate level of spare parts, the breakdowns
5 of primary and secondary tanks, and the decrease
6 crease in staffing levels; right?

7 A. Yes.

8 Q. Do you know if the decrease in
9 staffing levels was ever addressed?

10 A. Recently.

11 Q. Recently, meaning what?

12 A. In order for me to fill a position I
13 need approval from County Exec's office, and
14 they're finally giving me approval to fill a
15 number of vacant positions.

16 Q. How many vacation positions did you
17 have in April of 2008?

18 A. I'd have to look and see.

19 Q. Approximately how many vacant
20 positions did you have in April of 2008?

21 A. I'd have to look and see. I don't
22 recall.

23 Q. And recently how many approvals did
24 you get to fill vacancies?

25 A. Recently I got approval for three

1 Dianne Philipps

2 grinding and chopping mechanisms built into the
3 pumps.

4 We have -- all of our grinders pump
5 stations that we've installed service one home,
6 one single family home, they have that style pump
7 in it.

8 Q. But they don't have bigger pumps, is
9 that what you're saying?

10 A. No. We have a small pump station up
11 on Cottage Lane that has grinder type pumps, but
12 it's usually not large sewage pumps.

13 MR. BURKE: Okay. Can I have this
14 marked, please.

15 (Plaintiffs' Exhibit 34, e-mail
16 dated August 31st, 2010, from Ms. Cherian
17 to Elizabeth Zicca, was marked for
18 identification.)

19 Q. Okay. I'm showing you Exhibit 34,
20 which is an e-mail dated August 31st, 2010, from
21 Mr. Cherian to Elizabeth Zicca.

22 Do you know who she is?

23 A. Elizabeth Zicca?

24 Q. Yes.

25 A. No.

1 Dianne Philipps

2 Q. And in the body of the e-mail it
3 appears from Thomas Rudolph, it looks like I
4 guess this might have been forwarded, but it's an
5 e-mail Thomas Rudolph, May 14th, 2010 discussing
6 the compliance conference regarding an overflow
7 from one of their pump stations into a tributary
8 of the Hackensack River. And it mentions the
9 existing Consent Order. And that they'd like to
10 collect the suspended penalty and give a new
11 schedule of compliance to include an asset
12 management plan, and then issue a modified
13 Consent Order. You can decide the appropriate
14 penalty to be included in the new Order, if it is
15 violated.

16 Do you know if the suspended penalty
17 was requested and collected?

18 A. Not yet.

19 Q. Is it going to be?

20 A. According to this e-mail,
21 apparently. This is the first I've heard of it.

22 Q. So you were never made aware of the
23 suspended penalty being sought?

24 A. No.

25 Q. How about a new Consent Order being

1 Dianne Philipps
2 included in the Consent Order and should have
3 been completed by September 2008; correct?

4 A. That's what it says, but I don't
5 know -- I would like to see the response to that,
6 what our response was.

7 Q. Okay. But at least, you'd agree,
8 the DEC believed in February 2009 that work
9 reference should have already been completed in
10 September of 2008; right?

11 A. That's what they're saying.

12 MR. BURKE: I show you what I'd ask
13 be marked as Exhibit 36.

14 (Plaintiffs' Exhibit 36, Bates
15 stamped 2609, Notice of Violation, dated
16 April 7th, 2010 from the New York DEC, was
17 marked for identification.)

18 Q. Showing you what's been Bates
19 stamped 2609, Plaintiffs' Exhibit 36, a Notice of
20 Violation dated April 7th, 2010 from the New York
21 DEC. It appears I don't have the signature page.

22 A. This is the one.

23 Q. Do you recall receiving this Notice
24 of Violation?

25 A. Yes.

1 Dianne Philipps

2 Q. And it was a Notice of Violation
3 from the DEC?

4 A. Yes.

5 Q. And on this Notice of Violation they
6 list a number of sanitary sewer overflows of the
7 District, in particular April 26, 2009, Manhole
8 10172, 74 and 10434 Saddle River Road pump
9 station?

10 A. Yes.

11 Q. May 20, 2009 it lists again
12 Manhole 10172, 74, 754 Saddle River Road, near
13 Saddle River Pump Station?

14 A. Yes.

15 Q. October 25th, 2009 Twin Lakes Pump
16 Station?

17 A. Yes.

18 Q. February 17th, 2010, 754 Saddle
19 River Road, near Saddle River Pump Station?

20 A. Yes.

21 Q. April 2nd, 2010, Twin Lakes Pump
22 Station?

23 A. Yes.

24 Q. Okay. It says, this list does not
25 include the numerous wet weather overflows which

1 Dianne Philipps

2 occurred during our period of review from January
3 through present?

4 A. Yes.

5 Q. They ask for a compliance
6 conference?

7 A. Yes.

8 Q. It also said that penalties may be
9 up to 35 -- 37,500 per day, per violation?

10 A. Yes.

11 Q. Were there any penalties assessed
12 through the DEC for these dry weather events?

13 A. No.

14 Q. Well, what occurred at the
15 compliance conference; do you know?

16 A. We came in with the spill reports
17 for all these events. We discussed them. Some
18 of the things were, there'd be no way to prevent
19 them. We really didn't agree with their numerous
20 wet weather overflows comment. We discussed
21 that. Basically, you know, we had a conversation
22 about it and...

23 Q. You provided explanations, and they
24 didn't fine you?

25 A. They did not fine us yet. Whether

1 Dianne Philipps

2 they are or not, I'm not sure. Based on that
3 e-mail, it looks like they may.

4 Q. The initial Consent Decree had two
5 fine provisions; \$10,000 that you paid, \$10,000
6 that was held in abeyance; right?

7 A. Right.

8 Q. So that e-mail related to whether
9 they were going to require the amount that was
10 held in abeyance be paid; correct?

11 A. Correct.

12 Q. This is talking about different
13 fines for subsequent violations after the Consent
14 Decree had been entered into; right?

15 A. Yes.

16 Q. And you've never been fined for any
17 of these subsequent spills; correct?

18 A. Correct.

19 Q. In fact, other than this Notice of
20 Violation there's nothing that indicates that
21 you've actually ever been violated; right?

22 This is just a notice?

23 A. Correct.

24 MR. CAREY: Just for clarification
25 on the record, this was one of the

1 Dianne Philipps
2 clarifications that we had to a request
3 you had asked on Monday; whether or not
4 Ms. Philipps had been issued a Notice of
5 Violation.

6 THE WITNESS: Monday you had asked
7 if I had been issued a Notice of
8 Violation. I said, no. Then I recalled
9 this one.

10 MR. BURKE: Okay.

11 MR. CAREY: That was one of the
12 items we were going to correct.

13 Q. Do you recall any other times where
14 you've been issued a Notice of Violation from the
15 New York State DEC?

16 A. I don't specifically recall. We may
17 have in the last couple years, 'cause we've had
18 some issues at the wastewater treatment plant
19 where we've exceeded our permit.

20 MR. BURKE: Okay. Might as well get
21 to this one next. This is 37.

22 (Plaintiffs' Exhibit 37, Notice of
23 Violation, dated January 19th, 2010, from
24 Ms. Cherian to Ms. Philipps, was marked
25 for identification.)

1 Dianne Philipps

2 Q. Okay. I'm showing you what's been
3 marked as Plaintiffs' Exhibit 37.

4 (Document submitted.)

5 Q. Have you had an opportunity to
6 review Plaintiffs' Exhibit 37?

7 A. Yes.

8 Q. This is another Notice of Violation,
9 dated January 19th, 2010, from Mr. Cherian at the
10 New York State DEC to you at the Rockland County
11 Sewer District; correct?

12 A. Yes.

13 Q. And it deals with the Twin Lakes
14 Pump Station sanitary sewer overflow which flowed
15 into the Saddle River; correct?

16 A. It's a tributary to the Saddle
17 River.

18 Q. Okay. Well, it says that there was
19 approximately 1,000 gallons of sewage being
20 discharged into the Saddle River, or a tributary
21 to the Saddle River, that's what you're saying,
22 but this report says into the Saddle River.

23 We know, based on the location, that
24 it's a tributary to the Saddle River; right?

25 A. Correct.

1 Dianne Philipps

2 Q. And he goes on to say that the
3 sanitary sewer overflows are violations of
4 Article 17 of the Environmental Conservation Law,
5 and may be subject to penalties of up to 37,500
6 per day for violation.

7 So he's indicating that these are
8 violations, this spill in particular --

9 A. It's a she, just for your
10 information.

11 Q. I'm sorry, she. Beg your pardon.

12 She is indicating that this sanitary
13 sewer overflow at Twin Lakes Pump Station was in
14 violation of the New York State Environmental
15 Conservation Law?

16 A. Yes.

17 Q. Okay. Do you know if it also was in
18 violation of Federal Law under the Clean Water
19 Act, that has similar provisions to the New York
20 State Environmental Conservation Law?

21 A. It could be.

22 Q. Okay. And she's indicating that the
23 Sewer District may be subject to penalties of up
24 to \$37,500 per day per violation; right?

25 A. Yes.

1 Dianne Philipps

2 Q. And, in fact, isn't every sanitary
3 sewer overflow that reaches a water body in
4 violation of Article 17 of the Environmental
5 Conservation Law?

6 A. Yes.

7 Q. And perhaps also in violation of the
8 Clean Water Act?

9 A. Yes.

10 Q. And that would subject you, the
11 Sewer District, to potential fines of \$37,500 per
12 day, per violation; correct?

13 A. Yes.

14 Q. Do you know if you were violated,
15 you meaning the Sewer District violated, for this
16 Notice of Violation in January of 2010?

17 A. What was the question again?

18 Q. Do you know if the Sewer District
19 paid any fines for violations?

20 A. No, we didn't pay any fines for
21 violations.

22 Q. Other than the \$10,000 paid in the
23 initial Consent Decree, have any fines been paid
24 for sanitary sewer overflows to the DEC?

25 A. No.

1 Dianne Philipps

2 MR. BURKE: I'd ask that this be
3 marked as Plaintiffs' 38.

4 (Plaintiffs' Exhibit 38, Addendum to
5 the Dry Weather SSO Abatement Report,
6 dated March 19, 2010, was marked for
7 identification.)

8 Q. Ms. Philipps, showing you what's
9 been marked as Plaintiffs' Exhibit 38. It's
10 identified as the Addendum to the Dry Weather SSO
11 Abatement Report, dated March 19, 2010.

12 (Document submitted.)

13 Q. Have you seen this before?

14 A. Yes.

15 Q. And, in fact, it indicates it was
16 prepared by you and Gene Yetter?

17 A. Yes.

18 Q. On Page 2649, continuing through
19 2651 --

20 A. Yes.

21 Q. -- it lists the Asset History
22 Summary for the Saddle River Pump Station?

23 A. Here it says Pomona Pump Station.

24 Q. 2649?

25 A. Okay. On the bottom it says Saddle

1 Dianne Philipps

2 River.

3 Q. That's where it starts, 2649 and
4 continues through to 2651.

5 A. Okay.

6 Q. Do you know where the information
7 that was used to create this report came from?

8 A. We have a maintenance management
9 software program.

10 Q. That's what was used to generate
11 this?

12 A. Yes.

13 Q. The maintenance management software
14 program, how far back does it reach?

15 A. I think it was sometime in 2006,
16 maybe 2007.

17 Q. So it would list -- do you know if
18 it would list all of the maintenance from '06,
19 '07?

20 Because it appears that, as to the
21 Saddle River Pump Station, it's only listing 2009
22 and 2010.

23 A. Gene Yetter would know better why he
24 did it for the period of time that he did it.

25 Q. What's a pillow block?

1 Dianne Philipps

2 A. On a pump shaft there is -- it
3 supports the pump shaft between the pump and the
4 motor. The pump is like downstairs. The motor's
5 upstairs. Usually there's a joint between the
6 different sections of shafting, and there's a --
7 a bearing that supports that, it's usually
8 mounted to a steel beam.

9 Q. Okay. Do you know why it's called a
10 pillow or a pillow block?

11 A. I think 'cause it's kind of
12 shaped... let me borrow a pen. I guess they
13 think it's shaped like a pillow, maybe.

14 MR. CAREY: Not on that. I'll give
15 you a piece of paper.

16 A. Shaped like that. (Indicating).

17 Q. Okay.

18 A. And then there's a hole in the
19 middle, where the shaft bearing would be.

20 Q. Okay.

21 A. It's mounted usually on a piece of
22 steel, and the shaft would be going through
23 there.

24 MR. BURKE: All right. I guess we
25 can just mark that as 38A?

1 Dianne Philipps

2 (Plaintiffs' Exhibit 38A, hand drawn
3 drawing of a pillow block by Ms. Philipps,
4 was marked for identification.)

5 MR. BURKE: I ask this be marked as
6 39.

7 (Plaintiffs' Exhibit 39, letter from
8 Ms. Cherian to Ms. Philipps, dated
9 February 2nd, 2010, was marked for
10 identification.)

11 (Document submitted.)

12 Q. Okay. Have you had enough to time
13 to review Plaintiffs' 39?

14 A. Yes.

15 Q. This is a letter from Ms. Cherian to
16 you, dated February 2nd, 2010?

17 A. Yes.

18 Q. Regarding the Rockland County Sewer
19 District compliance conference, Twin Lakes Pump
20 Station; correct?

21 A. Yes.

22 Q. And that's where it was asking for,
23 because of the overflow incident on January 22nd,
24 they wanted an overall operation and maintenance
25 program for the District's 22 pump stations;

1 Dianne Philipps

2 right?

3 A. Yes.

4 Q. Do you know if that's the report
5 that was provided as the March 19, 2010 report?

6 A. (Indicating). Yes.

7 Q. That was. Which was identified as
8 Plaintiffs' Exhibit 38?

9 A. Yes.

10 Q. In particular it highlighted the
11 Saddle River Pump Station as some of the
12 information that it wanted to obtain?

13 A. Yes.

14 Q. In the second full paragraph
15 Ms. Cherian discussed the discussions that were
16 had during the compliance conference regarding
17 staffing.

18 Do you see that?

19 A. Yes.

20 Q. And she's saying that the Department
21 urges the County to secure funding for those
22 critical positions, especially during wet weather
23 events, prolonged wet weather events; right?

24 A. Yes.

25 Q. Were there problems with proper

1 Dianne Philipps

2 Probably a year.

3 MR. BURKE: Can you mark this as 40,
4 please.

5 (Plaintiffs' Exhibit 40, Bates Stamp
6 Number 2688, letter dated August 10th,
7 2009 from Ms. Cherian to Ms. Philipps,
8 regarding the annual comprehensive
9 inspection and a Notice of Violation, was
10 marked for identification.)

11 (Document submitted.)

12 A. Okay.

13 Q. You have reviewed Plaintiffs'
14 Exhibit 40, which is Bates Stamp Number 2688, a
15 letter dated August 10th, 2009 from Ms. Cherian
16 to you regarding the annual comprehensive
17 inspection and a Notice of Violation?

18 A. Yes.

19 Q. And it's saying that the inspection
20 received an unsatisfactory rating?

21 A. Yes.

22 Q. And that was for the Sewer District,
23 and there was issues with the secondary digester
24 and thickener operating at full capacity?

25 A. Right, the letter says that they are

1 Dianne Philipps

2 at full capacity.

3 Q. What do those do, the secondary
4 digester and thickener?

5 A. Digester digests the sludge, breaks
6 it down. The thickener basically thickens it so
7 it can be sent to the -- so it could be sent for
8 de watering.

9 Q. Okay. And they said they were at
10 full capacity, and they shouldn't be?

11 A. Well, we were -- we were -- the
12 primary digester was being repaired. And the
13 second digester needed work, so it wasn't
14 really -- wasn't running optimally. So it was --
15 until we had the primary digester fixed, and so
16 we put the primary digester on-line, and we had
17 to take the secondary digester off-line, clean it
18 out, and do repairs on that tank.

19 Q. What are the CBOD levels? What does
20 that refer to?

21 A. It's the biological oxygen, oxygen
22 demand.

23 Q. And in this letter it indicated that
24 a review of the monthly discharge monitoring
25 reports showed that the facility violated its

1 Dianne Philipps

2 SPDES permit affluent limits for the CBOD

3 March 9th, in March, June, and for TSS in March.

4 A. Yes.

5 Q. What's TSS?

6 A. Total suspended solids.

7 Q. So there was three noted violations
8 of the SPDES permit?

9 A. Yes.

10 Q. Do you know if you were fined or
11 violated by the DEC for these violations?

12 A. We were not fined.

13 Q. And you were npt violated; right?

14 This is a Notice of Violation, but
15 you didn't -- well, anything beyond the Notice,
16 you didn't receive anything?

17 A. Correct.

18 MR. BURKE: That's all I have.

19 Thank you, Ms. Philipps.

20

21 *****

22

23

24

25